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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 09/889,364 02/05/2002 11836.0691.P Christopher Sawdon 3769 EXAMINER 27551 7590 12/11/2003 STEPHEN H. CAGLE TUCKER, PHILIP C HOWREY SIMON ARNOLD & WHITE LLP ART UNIT PAPER NUMBER 750 BERING DRIVE HOUSTON, TX 77057 1712

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner		Application	n No.	Applicant(s)		
Prilip C Tucker Prilip		09/889.364		SAWDON ET AL.		
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extrasions of time may be available under the previous of 3° CPR 1.05(a), in an event, however, may a reply the finely filled to the pend for reply appendix above it leaves that thirty (30° days, a reply within the abutury minimum of theirly (30° days, a reply within the abutury minimum of theirly (30° days, as a reply within the abutury minimum of theirly (30° days, as a reply the finely filled or reply is pended above, the meaning abutury of their appears and a reply and a compared to reply appeared above, the meaning above, and a status of their pended for reply appeared above, the meaning above, and a status of their pended for reply appeared above, the meaning above, and a status of the pended for reply appeared above, the meaning above, and a status of the pended for reply appeared above, the meaning above, and a status of the pended for reply appeared above, the meaning above, and a status of the pended for reply appeared above, the meaning above, and a status of the pended for reply appeared above, the meaning above above the fill appear and a status of the status of the pended above, the meaning above above above the fill and a compared above. Status 1)★ Responsive to communication(s) filled on 22 September 2003. 2a)★ This action is FINAL. 2b) □ This action is non-final. 3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)★ Claim(s) 1.2 fair are pending in the application. 4)□ Claim(s) 1.2 fair are pending in the application. 5)★ Claim(s) 1.2 fair are pending in the application. 5)★ Claim(s) 1.2 fair are subject to the principle of the status of the secondary and th	Office Action Summary			Art Unit		
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Application/Control Number: 09/889,364

Art Unit: 1712

DETAILED ACTION

Claim Objections

1. Claim 12 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 12 fails to further limit the scope of the cations of parent claim 8.

Claim Rejections - 35 USC § 112

- 1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 2. Claims 3, 4, 5, 8, 9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims 3, 4, 5 and 9 teach "selected from the group comprising" which is improper Markush terminology, since such selection could be made from compounds which are not listed within the groups, since the word "comprising" is used. Proper Markush terminology is "selected from the group consisting of" or other similar language (see MPEP 2173.05 (h)). The language cannot be open-ended to be able to include compounds not listed within the Markush group.

Claim 8 depends from itself, thus the scope of the claim and those dependent therefrom, are not clear.

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- 3. Claims 1, 2, 6, 7, 10 and 11 are allowable over the art of record.
- 4. Applicants amendment is deemed to be partially persuasive. Applicant has overcome the prior art 35 USC 103 rejection, in view of the amendment to claim 1 to teach the specified conductivity, and lack of polyvalent metal cations. As noted above proper Markush terminology is "selected from the group consisting of", and cannot be open-ended such as "selected from the group comprising" or "selected from the group consisting essentially of". The rejection under 35 USC 112 is thus maintained.
- 5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1712

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 703-308-0529. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Philip C Tucker
Primary Examiner
Art Unit 1712

PCT-2919